

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Atif Khawaja, P.C.
To Call Writer Directly:
+1 212 446 4749
atif.khawaja@kirkland.com

601 Lexington Avenue
New York, NY 10022
United States

+1 212 446 4800

www.kirkland.com

Facsimile:
+1 212 446 4900

April 2, 2024

Via ECF

The Honorable Alvin K. Hellerstein
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Comcast Cable Commc'ns Mgmt., LLC v. MaxLinear, Inc.*,
Case No. 23-cv-04436-AKH

Your Honor:

We represent Defendant MaxLinear, Inc. (“MaxLinear”) in the above-referenced action and write to request guidance on the filing of MaxLinear’s response to the fourth and latest complaint filed by Plaintiff Comcast Cable Communications Management, LLC (“Comcast”).

At the hearing on March 4, 2024, the Court recognized that despite three earlier tries, Comcast’s operative complaint did not state a valid claim. *See* Mar. 4, 2024 Hrg. Tr., ECF 124, at 4:21-25, 9:16-17 (“I don’t believe you’ve been injured here.”). As a result, the Court ordered Comcast to either “withdraw” its claims or file an amended complaint by March 19, 2024. *Id.* at 15:23-16:4. Electing not to withdraw its claims, Comcast instead repleaded them and filed yet another amended complaint. *See* March 19, 2024 Third Am. Compl., ECF 129. But that fourth complaint—its Third Amended Complaint—merely belabors the insufficient claims pled in the prior three; Comcast still has not pled a valid claim.

As a result, MaxLinear will seek dismissal of Comcast’s complaint under Rules 12(b)(1) and 12(b)(6) and intends to file its motion tomorrow, consistent with the Court’s order to respond to Comcast’s complaint on April 3, 2024. In seeking dismissal, MaxLinear asks the Court to end Comcast’s case, which, as the Court observed, Comcast brought to “take up the Court’s time and ... inflict all kinds of proceedings on MaxLinear.” Mar. 4, 2024 Hrg. Tr. at 8:17-19.

As the Court is aware, however, MaxLinear has pled compulsory counterclaims against Comcast pursuant to Rule 13(a) for trade secret misappropriation, breach of nondisclosure

KIRKLAND & ELLIS LLP

The Honorable Alvin K. Hellerstein
April 2, 2024
Page 2

agreement, and unfair competition by Comcast. Consistent with this Court's orders, MaxLinear is prepared to refile those counterclaims in a more straightforward pleading as the Court directs.

MaxLinear seeks guidance on the sequence for those filings. MaxLinear intends to file its motion to dismiss so that this Court has an opportunity to decide MaxLinear's motion (and potentially close this case) before MaxLinear refiles its counterclaims. If the Court decides to close the case, MaxLinear can then refile its claims in a separate action. If, on the other hand, the Court would prefer to review both MaxLinear's motion to dismiss and its answer and counterclaims simultaneously, MaxLinear will of course oblige and can file those pleadings tomorrow. In all events, MaxLinear reserves all claims and defenses against Comcast, including its arguments in support of dismissal.

MaxLinear thanks the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Atif Khawaja, P.C.

Atif Khawaja, P.C.

cc: All Counsel of Record (via ECF)